

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HARTFORD CASUALTY INSURANCE)
COMPANY, an Indiana Corporation,))
Plaintiff,)
vs.) No. 3:15-CV-
FIREMAN'S FUND INSURANCE) 02592-SI
COMPANY, a California) VOLUME I
Corporation; BURNS & WILCOX)
INSURANCE SERVICES, INC., a)
California Corporation; and)
DOES 1 to 50,)
Defendants.)

AND RELATED CROSS-ACTIONS)

DEPOSITION OF EDWARD J. MCKINNON, RPA

Glendale, California

Monday, September 12, 2016

Volume I

Reported by:

SONDIA JOHNSON

CSR No. 6602

Job No. CS2381367

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Deposition of EDWARD J. MCKINNON, RPA,
Volume 1, taken on behalf of Defendants, at
450 North Brand Boulevard, Suite 600, Glendale,
California, beginning at 10:02 a.m. and ending at
11:14 a.m. on Monday, September 12, 2016, before
SONDIA JOHNSON, Certified Shorthand Reporter
No. 6602.

1 APPEARANCES OF COUNSEL:

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1 APPEARANCES OF COUNSEL (CONTINUED) :

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1 entities owned by Mr. Owhadi, but separate entities,
2 entities which had workers' compensation insurance
3 to protect the employees and other insurance for
4 making -- keeping payroll records and being operated
5 as businesses.

6 BY MR. BATCHMAN:

7 Q. Did you see anything in the underlying
8 record that led you to believe that Herndon Partners
9 was acting as anything other than as a homeowner of
10 the Broad Beach residence during the renovation that
11 was taking place in 2009?

12 A. No. In fact, it contracted with the
13 entities that were businesses, operating as
14 businesses to do the work. So withstanding in the
15 shoes of a homeowner.

16 Q. And based upon the facts as you understand
17 it, would that be a business activity of Herndon
18 Partners, LLC?

19 A. I would not expect that a court would
20 conclude that, no.

21 Q. Did you see anything in your review of the
22 underlying file that made you believe that Herndon
23 Partners, LLC was conducting business at the time of
24 the September 2009 accident?

25 A. No, I didn't see anything. It appeared to

1 be, from everything in the underwriting file, just
2 what it was represented to be, and that is an entity
3 created for tax purposes and for liability purposes
4 to insulate Mr. Herndon in his personal capacity.

5 Q. Did you see any misrepresentations of the
6 insurance application submitted by Mosen on behalf
7 of Mr. Owhadi and/or Herndon Partners, LLC?

8 A. I don't recall it considered to be a
9 misrepresentation.

10 Q. Going to page 8 of your report. The
11 second -- the first full paragraph indicates:

12 "FFIC failed to timely analyze or
13 investigate the availability of coverage
14 under the FFIC Excess policy. It is my
15 professional opinion that most reasonable
16 claims professionals reviewing the facts
17 and circumstances known or available to
18 FFIC would conclude that Herndon came within
19 the definition of insured, specifically 'any
20 person or organization held liable for an
21 act or failure to act by [Owhadi]."

22 The next paragraph reads:

23 "FFIC's failure to communicate
24 Herndon's potential insured status to anyone
25 outside of FFIC until the day before the

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

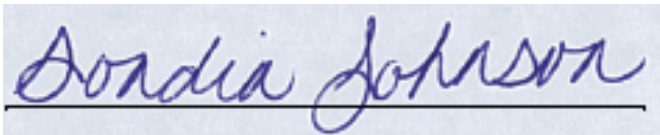
4 That the foregoing proceedings were taken
5 before me at the time and place therein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were placed under oath; that a
8 record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; further, that the foregoing
11 transcript is a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [] was not requested.

16 I further, certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney or any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated:

23 A handwritten signature in blue ink that reads "Sondia Johnson". The signature is written over a horizontal line.

24 SONDIA JOHNSON

25 CSR No. 6602